

REMARKS

Claims 1-41 are pending and at issue in this patent application. Of these, claims 1 and 23 are independent. The Office action of December 2, 2004, rejects claims 8, 18, 30 under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 1, 7, 13, and 17-20 are rejected under 35 U.S.C. 102(b), as anticipated by Mizikovsky (U.S. Patent No. 5,559,860). Claims 1-5, 9-12, 14, 15, 20-27, 31, 32, 34, and 37-41, are rejected under 35 U.S.C. 102(e), as anticipated by Lange (U.S. Patent No. 6,704,564). Claims 6, 8, 16, 28, 29, 30, 33, 35, and 36 are rejected under 35 U.S.C. 103 (a), as being obvious over Lange in view of Takagi (U.S. Patent No. 6,718,187). Applicants respectfully request reconsideration and favorable action in this case.

Applicants traverse the rejection of claims 8 and 30 under 35 U.S.C. § 112, second paragraph, for being indefinite. Claims 8 and 30 are amended to more clearly recite that a service state comprising a voice activated service state involves enabling a hands-free voice interface. This is supported in the specification at least at page 15, lines 26-27. As known by those skilled in the art, a hands-free voice interface allows a user to communicate with a device using voice commands and audible signals. In light of this amendment, the rejection of claims 8 and 30 should be withdrawn.

Applicants traverse the rejection of claim 18 under 35 U.S.C. § 112, second paragraph, for being indefinite. Claim 18, as originally filed, recites that a service state comprises a completion delay service state. As supported in the specification, at least on page 15, a delay service state may be a state where the user is not directly connected to a device operator, such as being placed on hold. Those skilled in the art would recognize the meaning of a delay service state and therefore the rejection is improper and should be withdrawn.

Claims 1 and 23 are amended to recite, in part, a context parameter indicating a device operating situation for a given context data. This is supported in the specification at least on pages 17-19 (relating to context estimates), page 22, and Figure 6. No new matter has been added.

Applicants respectfully traverse the rejection of claims 1, 7, 13 and 17-20 as being anticipated by Mizkovsky. Each of the pending claims recites setting or adjusting a service state of the wireless communication device in accordance with context data and a context parameter indicating a device operating situation for the context data. Mizkovsky does not disclose setting or adjusting a service state based on a context parameter indicating a device operating situation, and thus, Mizkovsky cannot anticipate the pending claims.

While Mizkovsky discloses a system that automatically handles incoming calls based on the identity of a caller, Mizkovsky does not disclose setting a service state of its device based on a context parameter indicating a device operating situation. Instead, Mizkovsky discloses a phone that recognizes an incoming call number via a caller ID signal, and initiates a predefined response to the call based on the caller ID signal. Mizkovsky does not consider, in any manner, a device operating situation, which may be, for example, that the device is being used in a moving vehicle, that the device is not with a user and is unattended, that the device is with a user who is running, etc. Moreover, Mizkovsky does not select a service state based on the operating situation, e.g., the claimed device may respond to a call differently when the device is being used in a moving vehicle than when the device is stationary. The identity of an incoming caller is a condition that is not based on an operating situation of the wireless communication device.

Applicants respectfully traverse the rejection of claims 1-5, 9-12, 14, 15, 20-27, 31, 32, 34, and 37-41, as being anticipated by Lange (U.S. Patent No. 6,704,564). Each of the

pending claims recites setting or adjusting a service state of the wireless communication device in accordance with context data and a context parameter indicating a device operating situation. Lange does not disclose setting or adjusting a service state, and thus, cannot anticipate the pending claims.

Generally, the claimed device receives context data (e.g., from a set of sensors) in order to determine a device operating situation defined by a context parameter. For example, the context data may show that the device is not moving, that the device temperature is not human body temperature, and the device ambient noise relates to a group conversation. This context data may indicate a device operating situation where a device operator is conducting a meeting. Based on the device context, or device operating situation, the claimed device will select a particular service state in which to operate, i.e., it will operate according to a set of predefined operating rules, or device operating parameters. In the context described above, the claimed device will select a service state appropriate for a device operator conducting a meeting. The service state may be defined by a set of rules, or device operating parameters, such as “send all incoming calls to voice mail unless the call is from my boss, in which case initiate an audible alert.” Thus, the claimed device receives context data, determines the device operating situation based on a context parameter, and then operates the device according to a set of device operating parameters defining a service state.

Lange does not disclose setting or adjusting a service state based on a context parameter and context data because Lange does not disclose more than one service state for its device. While Lange discloses changing trigger levels for a telematics device, the rules of operation for the Lange device do not change. The trigger level described in Lange is a threshold signal level from a vehicle sensor, which when exceeded, will cause the device to transmit a signal to a service center. Regardless of the threshold level for the signal, the

service state is the same, i.e., given that a signal level is exceeded, a signal is sent to a service center. Because the operation performed by the telematics device in response to a trigger remains the same, the Lange telematics device does not operate differently from its one and only mode of operation. Lange also does not suggest that its service state can or should be modified.

At best, Lange discloses changing a context parameter for its device. However, changing the context parameter does not affect the device operating parameter, i.e., “given that a trigger level is reached, send a signal.” It follows that Lange does not disclose device operating parameters defining a preferred service state because Lange does not provide a different service state based on a context parameter and context data. Thus, Lange cannot anticipate any of the pending claims.

Claims 6, 8, 16, 28, 29, 30, 33, 35, and 36 are rejected under 35 U.S.C. § 103 (a) as obvious over Lange in view of Takagi (U.S. Patent No. 6,718,187). Applicants note that Lange may only qualify as prior art under 35 U.S.C. § 102(e), as properly recognized by the Examiner in the previous rejection. 35 U.S.C. § 103 (c) states that “[s]ubject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.” Motorola, Inc., is the assignee of the Lange patent as well as of the pending application, where the assignment assigning rights to Motorola, Inc., is recorded in the United States Patent and Trademark Office (“USPTO”) at Frame 0605 of Reel 014131. Therefore, under 35 U.S.C. 103 (c), Lange cannot be used as a § 103 prior art reference. It follows that

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the rejection of claims 6, 8, 16, 28, 29, 30, 33, 35, and 36 under § 103(a) is improper and must be withdrawn.

CONCLUSION

For at least the reasons set forth above, Applicants respectfully request reconsideration and allowance of rejected claims 1-41.

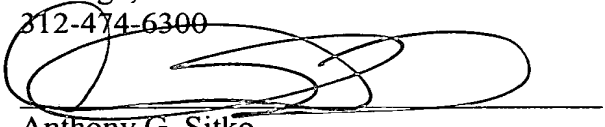
Although Applicants believe that no other fees are due, the Commissioner is hereby authorized to charge any fees or to credit any overpayments to Deposit Account No. 13-2855 of Marshall, Gerstein & Borun LLP. In addition, if a petition for an extension of time under 37 CFR 1.136(a) is necessary to maintain the pendency of this case and is not otherwise requested in this case, Applicants request that the Commissioner consider this paper to be a request for an appropriate extension of time and hereby authorize the Commissioner to charge the fee as set forth in 37 CFR 1.17(a) corresponding to the needed extension of time to Deposit Account No. No. 13-2855 of Marshall, Gerstein & Borun LLP.

If there are matters that can be discussed by telephone to further the prosecution of this application, Applicants respectfully request that the Examiner call its attorney at the number listed below.

Respectfully submitted,

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